

In re Patent Application of:
DOHRMANN
Serial No. 09/981,287
Filed: OCTOBER 18, 2001

REMARKS

Claims 1-41 remain in this application. Claims 1-41 stand rejected.

The examiner rejected claims 1-7, 12, 14, 18-21, 27-30 and 37-41 under 35 U.S.C. § 102 as anticipated by Easterbrook.

Claim 1 requires "a processor that generates audio and visual components of instructional information... according to a software algorithm containing at least one predetermined rule." Easterbrook does not disclose this feature. Easterbrook does not disclose a processor with the claimed capabilities. Easterbrook does not disclose any software algorithm for performing the claimed function and Easterbrook discloses no rules by which the software algorithm controls the delivery of instructional information.

The Examiner refers to column 3, lines 39-45 and to Figure 4 of Easterbrook as containing the claimed features. However, the selector identified in item 25 appears to be a manual switching device by which an operator can manually select one of the input devices such as cameras, microphones and other sensors. See Figure 4. Accordingly, the rejected claims are not anticipated by Easterbrook.

The Examiner rejected claims 8-11 and 15-17 under 35 U.S.C. § 103 as unpatentable over Easterbrook. Claims 8-11 are dependent upon claim 1, directly or indirectly, and

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contain all of the limitations of claim 1. The Examiner has not provided any arguments as to why the claimed features discussed in conjunction with claim 1 would have been obvious.

Instead, the Examiner focuses solely on the limitations of claims 8-11. Claims 8-11 are not obvious because they contain the limitations of claim 1 as discussed above and because the Examiner has not carried his burden of proof of showing a rationale for any modifications to what Easterbrook discloses.

Claims 15-17 are dependent on independent claim 14. Independent claim 14 requires "at least one processor connected to said network that generates audio and visual instructional information according to input from the at least one user and at least one predetermined rule." As noted above in conjunction with claim 1, Easterbrook does not disclose the use of a processor having the features claimed nor at least one predetermined rule for generating audio and visual instructional information. Accordingly, claim 14 is not anticipated by Easterbrook. The Examiner's arguments relating to claims 15-17 again focus on the terms of the dependent claims and not the independent claim from which those dependent claims depend. The Examiner has made no argument as to why the independent claim limitations from which the dependent claims depend would have been obvious. Claims 15-17 are not obvious because they contain the limitations of claim 14 as discussed above and because the Examiner has not carried his burden of proof of showing a rationale for any modifications to what Easterbrook discloses. Accordingly, the

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Examiner has failed to establish a prima facie case of obviousness.

Turning to independent claim 19, the claim requires "generating, in a processor, commands to control audio and visual instructional information from provided data according to the user input and at least one predetermined rule." As noted before, Easterbrook does not teach nor suggest such a limitation. Accordingly, claim 19 is not anticipated nor rendered obvious by Easterbrook.

Independent claim 28 requires "generating in a processor commands to control audio and visual instructional information from provided data according to the user input and at least one predetermined rule."

Claim 29 requires "a server provided with a plurality of switches that select one or more data sources to provide audio and visual components to the output devices based on instructions from the processor according to the software algorithm containing at least one predetermined rule, whereupon order and sequence in which the data from each source to be applied is determined.

Independent claim 30 requires "generating in a processor commands to control audio and visual instructional information from provided data according to the user input and a software algorithm containing at least one predetermined rule."

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Independent claim 37 has been cancelled in favor of independent claim 38 which requires that the "content of video components delivered to each screen is switched in accordance with a specific algorithm."

Independent claim 40 requires "at least one processor that generates audio and visual instructional information according to input from the at least one user and at least one predetermined rule;...at least one device server configure to receive an input from at least one user, to receive data from at least one source, transmit information associated with the data to the processor, and receive instructions from the processor according to at least one predetermined rule that transmits the generated instructional information to the plurality of output devices."

Although independent claims 28, 29, 30, 37 and 40 were each rejected as anticipated under U.S.C. § 102 by Easterbrook, the Examiner has failed to identify any disclosure in Easterbrook that corresponds to the respective limitations quoted above. Accordingly, the Examiner has failed to establish a prima facie case of anticipation of these independent claims. Similarly, the Examiner has failed to establish a prima facie case of obviousness over Easterbrook of the respective claims, dependent on these independent claims.

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The Examiner rejected claims 13 and 26 under 35 U.S.C. § 103 as unpatentable over Easterbrook in view of Levin et al.

Claim 26 is dependent, directly or indirectly upon claim 19 and distinguishes over Easterbrook for the reasons given with respect to claim 19.

Independent claim 13 requires "a processor that receives and processes data related to instructional information to be applied to a plurality of output devices according to a software algorithm and at least one predetermined rule...at least one user interface that provides comments and instructions related to the displayed images in the broadcast sound...data switches that activate and deactivate data source devices according to a predetermined software algorithm, whereby data switches provide a unique audio and visual output combination set by a plurality of rules associated with the software algorithm."

Neither Easterbrook nor Levin et al. teach or suggest these limitations. As pointed out, the features noted with respect to independent claim 13 are not found in Easterbrook at all.

The patent to Levin et al. is directed to document annotation and uses an electronic stylus or tablet for annotating documents. Easterbrook does not utilize, display or manipulate documents. Therefore, there is no teaching or

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suggestion for using the disclosed invention of Levin et al. with the manual, not computerized, system of Easterbrook. The two references are drawn from non-analogous arts and would not be suitable for use together. Accordingly, the Examiner has failed to establish a prima facie case of obviousness of claims 13 and 26 over Easterbrook in view of Levin et al.

The Examiner rejected claims 22-25, 31 and 33-36 under 35 U.S.C. § 103 as unpatentable over Easterbrook in view of Konopka et al. and further in view of Stein. The Examiner refers to column 2, lines 27-29 of Easterbrook as "inherently" providing a graphical user interface. That simply is not the case. The section of the specification of Easterbrook referred to addresses the use of a personal computer for providing a "script" which is typed into a personal computer which provides a signal to an audio instruction voice synthesizer which provides an audio signal to the recorder and also to a loud speaker. The instructor follows the instructions in the script as provided by the voice synthesizer. There is no graphical user interface. It is not inherent in Easterbrook.

The Examiner states that Konopka et al. "teaches that an instructors interface can be a touch panel" and that Stein "teaches the use of a graphical user interface that includes an area for an active source window." With respect to each of these features, the Examiner states that it would have been "obvious to one of ordinary skilled in the art that an instructor...could use the instructor interface of Konopka et al. and that it "would have been obvious...that internet video

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sources could be used by Easterbrook for presentation of expert tutor images."

The test of obviousness has nothing to do with what "could be" done. Rather, there must be a teaching or suggestion somewhere in the references applied against the claims for the combination of references. There is no such teaching or suggestion to be found in these references. In fact, on the contrary, there is no way that the Easterbrook system could reasonably be adapted to utilize a graphical user interface. Easterbrook does not use a live instructor. Rather, Easterbrook records instructional material by the instructor. See column 2, lines 12-51.

Accordingly, the Examiner has failed to establish a prima facie case of obviousness of the rejected claims of Easterbrook in view of Konopka et al. and further in view of Stein.

The Examiner rejected claim 32 under 35 U.S.C. § 103 as unpatentable over Easterbrook in view of Konopka et al., Stein and further in view of Levin et al.

Claim 32 is dependent upon claim 31 and is allowable for the reasons given with respect to claim 31. As pointed out above, the combination of the secondary references with Easterbrook is inappropriate. With respect to the limitations of claim 32, the disclosure of Levin et al. is directed to

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document annotation and manipulation and is totally unsuited for use with Easterbrook.

For the reasons indicated with respect to each of the rejections above, the applicant respectfully requests that the Examiner reconsider the rejections and withdraw them.

The amendments to claims 13, 19 and 29 were made solely for the purposes of correcting typographical errors that were obvious.

Accordingly, applicant respectfully request that the Examiner withdraw the rejections and permit the application to issue as a patent.

Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

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Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: DIRECTOR, U.S. PATENT AND TRADEMARK OFFICE, ALEXANDRIA, VA 22313, on this 27 day of January, 2004.

Lester Ferguson